

Mr. Speaker, on September 24, 1998, an article entitled, "Friends Pay Homage to Crusader for the Blind. Jernigan Still Working Despite Lung Cancer" appeared in the *Baltimore Sun*. Because it presents a fitting tribute to Dr. Jernigan's life and work, I insert the text of this article in the RECORD at this point.

FRIENDS PAY HOMAGE TO CRUSADER FOR THE BLIND JERNIGAN STILL WORKING DESPITE LUNG CANCER

(By Ernest F. Imhoff)

A steady stream of old friends—maybe 300 in the past months—have been visiting Kenneth Jernigan at his home in Irvington.

Pals who followed the old fighter for the blind as he tenaciously led fights for jobs, for access, for independent living, for Braille and for civil rights have come to say thank you and goodbye to a dying blind man they say expanded horizons for thousands of people.

James Omvig, a 63-year-old blind lawyer, and his sighted wife Sharon flew from Tucson, Ariz., to visit with the president emeritus of the National Federal of the Blind (NFB), who is in the latter stages of lung cancer.

"The wonderful life I've had is all due to Dr. Jernigan," Omvig said. In the 1950s, he "was sitting around at home" in Iowa, after learning chair-making, until he met Jernigan and began studying Braille and other subjects. Omvig then graduated from college, got a law degree, became the first blind person hired by the National Labor Relations Board and later developed programs for the blind at Social Security in Baltimore, Alaska and elsewhere.

One topic of conversation among the friends has been Jernigan's latest project, a proposed \$12 million National Research and Training Institute for the Blind for NFB headquarters in South Baltimore.

Last week, Larry McKeever, of Des Moines, who is sighted and has recorded material for the 50,000-member federation, came to chat and cook breakfast for the Jernigans. Donald Capps, the blind leader of 58 South Carolina NFB chapters, called to congratulate Jernigan on being honored recently at the Canadian Embassy for his Newline invention that enables the blind to hear daily newspapers.

Floyd Matson, who is sighted and has worked with Jernigan for 50 years, came from Honolulu to be with "my old poetry and drinking buddy."

A dramatic example of the high regard in which blind people hold Jernigan came during the annual convention of 2,500 NFB members in Dallas in July. A donor contributed \$5,000 to start a Kenneth Jernigan Fund to help blind people.

Quickly, state delegations caucused and announced their own donations. The result: pledges of \$137,000 in his honor.

Jernigan, 71, who was born blind and grew up on a Tennessee farm with no electricity, learned he had incurable lung cancer in November. In the past 10 months, Jernigan has been almost as busy as ever. He has continued projects such as editing the latest in his large-type "Kernel Book" series of inspirational books for the visually impaired.

But his focus has been the proposed four-story institute, for which \$1 million has been raised. It will house the nerve center of an employment program; research and demonstration projects leading to jobs and independent living; technology training seminars; access technology, such as applications for voting machines, airport kiosks and information systems; and Braille literacy initiatives to reverse a 50 percent illiteracy rate among visually impaired children.

In fighting for the blind, Jernigan has frequently been a controversial figure. Before

he moved to Baltimore in 1978, the Iowa Commission for the Blind, which he headed, was the subject of a conflict-of-interest investigation by a gubernatorial committee. In the end, Gov. Robert Ray felt the committee's report vindicated the commission. The governor and the committee described the commission's program for the blind as "one of the best in the country."

"There are good things in everything, even this illness," said his wife, Mary Ellen Jernigan. "You expect to hear from old friends. But in letters and calls, we hear from hundreds of people we don't know."

TRIBUTE TO BILL GRADISON

HON. JOHN R. KASICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1998

Mr. KASICH. Mr. Speaker, I rise today to pay tribute to our former colleague Bill Gradison. Bill served as a highly respected Member of this body from 1975 through January, 1993. For the past 6 years Bill has served as President of the Health Industry Association of America. He will retire from that post at the end of the year.

During his years at HIAA, Bill has demonstrated the same knowledge, commitment and skills that he did in this body. As an expert on health care policy, Bill worked to improve the Nation's health care system and the health of all Americans. Equally important, he did so at all times with great thoughtfulness and by truly being a gentleman.

In his 18 years in the House, Bill had a strong influence on many issues, including health care, the budget, Social Security, trade and governmental self discipline.

Bill found health care to be particularly absorbing and challenging. Both on and off Capitol Hill, Bill has worked hard to ensure that all Americans have access to high quality health care at a reasonable cost.

In Congress, Bill worked enthusiastically to promote hospice care, an innovative, compassionate approach to caring for the terminally ill and their families. In 1982, legislation which he sponsored with then Representative Leon Panetta to allow hospices to provide care under Medicare was enacted. Over the years, Bill sponsored numerous other hospice-related measures that received strong bipartisan support. Today, this humanitarian yet cost effective end of life care is widely accepted.

One of Bill's most significant non-health congressional achievements was indexing income tax brackets and the standard deduction for inflation. Bill was also a major participant in developing the 1983 Social Security measures that restored the Social Security System to solvency.

I hope my colleagues will join me in congratulating Bill for his years of service in Congress and at HIAA. We should certainly appreciate his contributions to public policy and wish him the best of luck in his future endeavors.

100% ENROLLMENT OF LOWER INCOME MEDICARE BENEFICIARIES IN THE QMBY & SLMBY PROGRAMS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1998

Mr. STARK. Mr. Speaker, I am pleased to join Representative McDERMOTT in introducing legislation to ensure that 100 percent—or as close to 100 percent as humanly possible—of low-income Medicare beneficiaries eligible for QMBY and SLMBY are enrolled in those programs. The bill provides for a data match between the IRS and HHS to detect low income Medicare beneficiaries and presumptively enroll them in the programs.

We are introducing the bill in the last hours of the Congress so that the administration, seniors' groups, and others can study the issue over the adjournment period and make suggestions for improvements and changes for a new bill in the 106th Congress.

In 1988, Congress enacted provisions to protect low-income Medicare beneficiaries from the financial distress of out-of-pocket health care costs. The protections were embodied in the Qualified Medicare Beneficiary (QMB) Program under which state Medicaid Programs pay Medicare premiums, deductibles and co-insurance for people with limited resources and with incomes of not more than 100 percent of the Federal poverty threshold, currently \$691 per month for an individual. In subsequent years similar but more limited provisions were enacted for those with slightly higher incomes.

Premium and other cost-sharing protections are critical to the well-being of low-income Medicare beneficiaries. Medicare covers less than half of the total health spending of the elderly and is less generous than health plans typically offered by large employers. Health care spending for low-income beneficiaries who are also eligible for Medicaid is substantially higher—Medicare payments for them are 70 percent higher than for those with higher incomes. Beneficiaries spend, on average, more than \$2,500 out-of-pocket on Medicare premiums and cost-sharing, and on health services not included in the Medicare program. This is a third of the annual income of an individual living in poverty.

Moreover, on average the health of low-income Medicare beneficiaries is substantially worse than that of the general Medicare population: Low-income beneficiaries are nearly twice as likely as those with higher income to self-report fair to poor health and nearly twice as likely to have used an emergency room in the past year; they are less likely to have a particular physician; and they are three times more likely to have needs for assistance due to functional impairments in activities such as dressing, eating and bathing.

Despite the importance of financial protections and their promise of help to low-income beneficiaries, the current QMBY and SLMBY (Specified Low-Income Medicare Beneficiaries, with incomes up to 120 percent of poverty) benefits have failed to reach nearly four million eligible individuals. A recent Urban Institute report estimates that only 10 percent of those eligible are participating in the SLMBY program and less than two-thirds of those eligible are enrolled for QMBY benefits.

Complex enrollment processes, requirements to apply at welfare offices, lengthy delays in refunding premiums deducted from cash payments, and the lack of effective, coordinated outreach and problem-solving systems have all been identified as issues that impede program effectiveness. Identifying and enrolling those entitled to benefits has been a significant challenge of the buy-in programs. Moreover, administration of the buy-in programs by different Medicaid systems of the 50 states and the District of Columbia make the benefit unevenly available across the country.

The importance of the buy-in programs to low-income Medicare beneficiaries should not be underestimated. Because of their greater-than-average health care costs, and because Medicare does not cover many services critical to older and disabled people, individuals eligible for buy-in programs can benefit greatly from the extra income they retain when they are relieved of cost-sharing responsibilities. The obvious and most important aspect of the buy-in programs is that they put income back into the pockets of low-income people who can use it to pay for food, clothing, shelter, unreimbursed medical expenses and other necessities of life.

Mr. Speaker, we look forward to public comment on the technical features of the bill, and hope it will have widespread support in the 106th Congress.

HONORING SHELDON L. GOLDBERG ON HIS RETIREMENT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1998

Mrs. MORELLA. Mr. Speaker, it is my great pleasure to congratulate my constituent Sheldon L. Goldberg on his retirement as President of the American Association of Homes and Services for the Aging (AAHSA), after more than fifteen years of service. The AAHSA is a national nonprofit organization representing 5,000 nursing homes, continuing care retirement communities, senior housing and assisted living facilities and community service organizations for the elderly. The AAHSA is a leader in the development of an integrated continuum of care for frail elderly people and individuals with disabilities. I am familiar with the AAHSA through their nursing facilities and retirement communities in Maryland, including Asbury Methodist Village in Gaithersburg, the Friends House Retirement Community in Sandy Springs, the Hebrew Home of Greater Washington in Rockville, and the National Lutheran Home in Rockville. Mr. Goldberg, who has been a force in the long-term care field for more than twenty years, is leaving the AAHSA to become the CEO of the Jewish Home and Hospital in New York City.

During his tenure at the AAHSA, Mr. Goldberg has been instrumental in expanding the organization's focus in several key areas, including public policy advocacy. In addition, the AAHSA's array of services has grown under his guiding hand, and now includes capital financing through the AAHSA Development Corporation, professional certification for retirement housing professionals, and continuing care retirement accreditation through the Continuing Care Accreditation Commission. Mr.

Goldberg also spearheaded the AAHSA's movement to include "Services" in its name and initiated the development of the International Association of Homes and Services for the Aging, serving as its president since 1994.

In addition to serving as President of the AAHSA since 1982, Mr. Goldberg currently serves on the United States board of the International Leadership Center on Longevity and Society, the board of Generations United, and the Housing Development Reporter advisory board. He served as president of the National Assembly of National Voluntary Health and Social Welfare Organizations from 1992 through 1995, when he was the recipient of the 1995 Award for Excellence in the National Executive Leadership Forum. In 1995 and 1996, Mr. Goldberg served as chair of the Leadership Council of Aging Organizations, a coalition of national organizations concerned with the well-being of America's elderly and committed to representing the elderly's interests in the federal policy arena.

Prior to joining the AAHSA, Mr. Goldberg held the position of executive director of the Wisconsin Association of Homes for the Aging for three years. Prior to that he was director of the Wisconsin County Boards Association and a budget analyst at the Wisconsin Department of Health and Human Services. A native of Wisconsin, Mr. Goldberg received his bachelor's degree in political science, psychology and sociology and his master's degree in psychology at the University of Wisconsin, where he also did his graduate work in public administration.

Sheldon Goldberg has been a tireless advocate for the needs of older Americans. I know his colleagues join me in recognizing his many years of service to the AAHSA and in wishing him health, happiness and personal fulfillment in his future endeavors.

INTRODUCTION OF SMALL BUSINESS FRANCHISE ACT OF 1998

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 14, 1998

Mr. CONYERS. Mr. Speaker, I am pleased to be introducing the "Small Business Franchise Act of 1998" along with my good friend from North Carolina Mr. COBLE. This legislation represents the culmination of many months of work in crafting legislation which creates an appropriate balance between the rights of franchisors and franchisees.

There is currently no federal law establishing standards of conduct for parties to a franchise contract. The Federal Trade Commission rule promulgated in 1979 (16 C.F.R. 436), was designed to deter fraud and misrepresentation in the pre-sales process and provides disclosure requirements and prohibitions concerning franchising and business opportunity ventures. However, the FTC has consistently maintained that it has no jurisdiction over problems franchisees face after the franchise agreement is entered into.

In the absence of any federal controls or regulation, a number of problems and complaints have been lodged in recent years, principally stemming from the fact that franchisees do not have equal bargaining power with large

franchisors. The concerns include the following:

Taking of Property without Compensation. The franchise relationship almost always includes a post-termination covenant not-to-compete which prohibits the franchisee from becoming an independent business owner in a similar business upon expiration of the contract. This can have the effect of appropriating to the franchisor all of the equity built up by the franchisee without compensation.

Devaluation of Assets. Franchisors often induce a franchisee to invest in creating a business and then establish a competing outlet in such proximity to the existing franchisee that it causes significant damage or destruction to the existing franchised business.

Restraint of Trade. Most franchise relationships mandate that franchisees purchase supplies, equipment, furniture, or other items from the franchisor or sources affiliated with or approved by the franchisor. While it may be appropriate for franchisors to exercise some control concerning the characteristics of the products or services offered to franchisees, tying franchisees to certain vendors can cost franchisees millions of dollars, prevents competition among vendors, and can have an adverse impact upon consumers.

Inflated Pricing. Many franchise agreements specify that the franchisor has the right to enter into contractual arrangements with vendors who sell goods and services to franchisees that are mandated by the franchise agreement. It has been alleged that these vendors often provide kickbacks, promotional fees, and commissions to the franchisor in return for being allowed to sell their products and services to a captive market. Instead of passing these kickbacks, promotional fees, and commissions on to the franchisee to reduce their cost of goods sold and increase their margin, these payments, it is asserted, benefit the franchisor.

While our nation has enjoyed an unprecedented economic boom, it is essential that we in Congress insure that prosperity reaches down to the small businesses that make up the heart and soul of our economy. There is of course little time left in the 105th Congress to allow for consideration and inaction of this legislation. However, I am hopeful that this legislation will be at the top of the Judiciary's committee agenda when we return next year, and I will be seeking hearings on this matter at the earliest occasion.

The following is a section-by-section description of the legislation.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

Sets forth the short title of the Act and the table of contents.

SECTION 2. FINDINGS AND PURPOSE

Subsection (a) specifies a series of Congressional findings. Subsection (b) states that the purpose of the Act is to promote fair and equitable franchise agreements, to establish uniform standards of conduct in franchise relationships, and to create uniform private Federal remedies for violations of Federal law.

SECTION 3. FRANCHISE SALES PRACTICES

Subsection (a) prohibits any person, in connection with the advertising, offering, or sale of any franchise, from (1) employing a device, scheme, or artifice to defraud; (2) engaging in an act, practice, course of business, or pattern of conduct which operates or is intended to operate as a fraud upon